

## DIVISION 4. OVERLAY DISTRICTS

### SUBDIVISION 1. HISTORIC OVERLAY DISTRICTS

#### **Sec. 130-401. Purpose and intent.**

The City of Manassas seeks to promote the education, prosperity, and general welfare of the public through the identification, preservation, and enhancement of landmarks, buildings, structures, settings, neighborhoods, places, and features with special historical, cultural, and architectural significance. To achieve these general purposes, the City of Manassas intends to pursue the following specific actions:

- (a) To identify, preserve, and protect Historic Structures, and any other buildings or structures within the City having an important historic, architectural, archaeological, or cultural interest, and any “historic areas” within the City as defined by state law, and areas of unique architectural value.
- (b) To assure that, within the City's historic districts, any construction, reconstruction, alteration, or restoration will be architecturally compatible with the Historic Structures therein.
- (c) To maintain and improve property values by providing for the upkeep, rehabilitation, and restoration of older structures in a safe and healthful manner, and by encouraging desirable uses and forms of development that will lead to the continuance, conservation, and improvement of the City's historic, cultural, and architectural resources and institutions within their settings.
- (d) To promote tourism and enhance business and industry, and to promote an enhanced quality of life within the City, through the protection of historic, architectural, cultural, and archaeological resources.

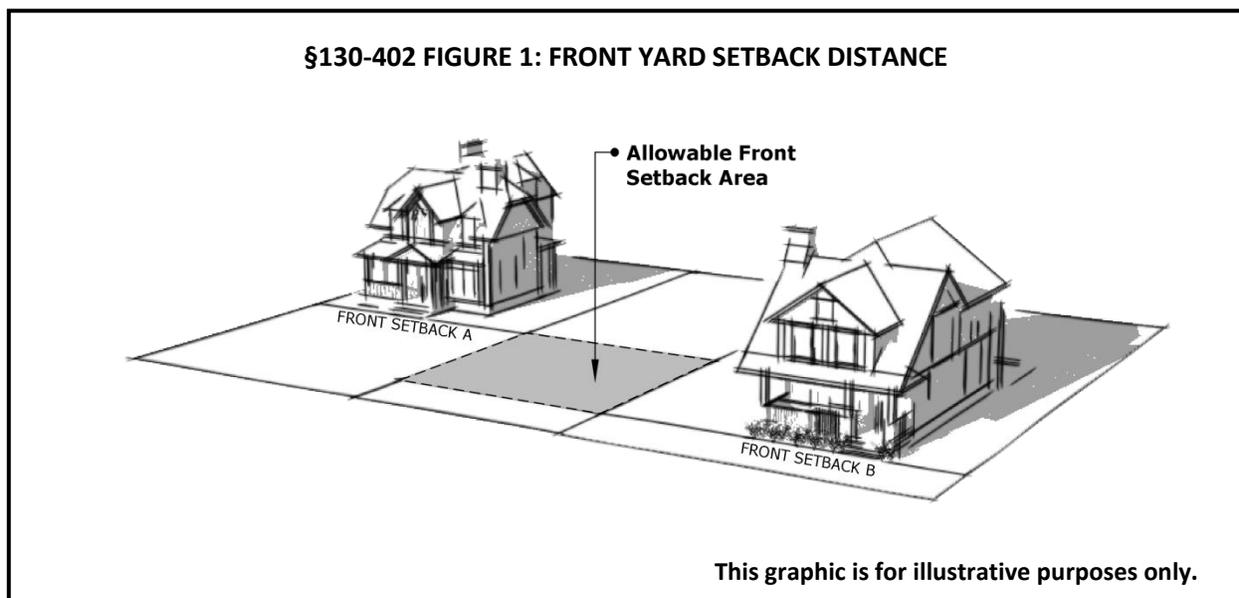
#### **Sec. 130-402. Historic overlay districts.**

- (a) *Establishment.* The City Council has designated historic overlay districts (HOD) in the City as defined by Article II of this chapter, the boundaries of which are defined on an overlay district zoning map adopted herewith.
- (b) *Criteria for establishment.* The City Council may establish additional HOD's or modify existing ones. Upon request of the Council, the Architectural Review Board (ARB), as established under §130-404, shall prepare and submit a report to evaluate the proposed additional or modified historic district. Such report shall define the proposed HOD boundaries, set out the historic and/or architectural significance of the Historic Structures to be protected, and evaluate whether the public interest favors creation or modification of an HOD.
- (c) *Inventory of properties.* The ARB shall maintain an inventory of all properties within the established boundaries of an HOD. The inventory shall designate all structures as contributing or non-contributing as defined by Article II of this chapter.
- (d) *Amendments to historic overlay district boundaries.* The ARB may propose to the Planning Commission and/or the City Council such amendments as deemed appropriate for the revision to an existing HOD in accordance with zoning map amendment requirements of this chapter.

(e) *Relation to other districts.* The HOD shall be in addition to and shall overlay all other zoning districts within its boundaries, so that a parcel of land lying within the HOD will also lie in one or more “A”, “R”, “B”, “P”, or “I” districts. The effect is to create a new district, which has the requirements of the underlying district, together with the requirements of the overlay district.

(1) *Exception to front yard setbacks.* Within the boundaries of the HOD, the front setback distance requirements for R-1, R-2, and R-2-S districts shall be modified to provide that, where a new single family detached dwelling is constructed, the front setback distance shall be no greater or lesser than the setback distance of the contiguous dwellings. For the purpose of this requirement, any contiguous vacant lot or contiguous dwelling unit separated by a street right-of-way shall not be considered a contiguous dwelling unit. All other requirements of the underlying zoning district shall be in full force and effect.

(2) *Exception to dustless surface requirement.* The use of gravel for driveway surfacing shall be permitted for single family detached dwellings located in the HOD in accordance with §130-205(b).



**Sec. 130-403. Individually protected properties.**

(a) *Establishment.* The City Council has adopted a list of Historic Landmarks in the City which shall be individually protected properties. For future inclusion in this list, Historic Landmarks shall be documented as being at least 50 years old and meet at least one of the following criteria:

- (1) The structure is on the National Register of Historic Places as called for by the United States Congress in the Historic Preservation Act of 1966;
- (2) The structure is on the state landmarks register pursuant to Code of Virginia, §10.1-2200 et seq.;
- (3) The structure exemplifies or reflects the architectural, cultural, political, economic, social, or military history of the nation, state, or community;

- (4) The structure is associated with persons of national, state, or local historical significance;
  - (5) The structure is a good example of local or regional architectural design or exemplifies the local craftsmanship, making it valuable for study of period, style, or method of construction;
  - (6) The structure is a work of a nationally recognized architect;
  - (7) The structure is attributed to an architect or builder of local prominence; or
  - (8) The structure fosters civic pride in the City's past and enhances the City's attractiveness to visitors.
- (b) *Amendments to historic landmark list.* Following notice to the property owner, the ARB may propose to the Planning Commission and/or the City Council such amendments as deemed appropriate for revision to the historic landmarks list in accordance with the zoning map amendment requirements of this chapter.

**Sec. 130-404. Architectural Review Board.**

- (a) *Creation.* For the general purpose of this Chapter, there is created by the City Council the Architectural Review Board (ARB). The ARB shall be composed of a minimum of five regular voting members, a majority of whom shall be residents of the City. The members of the ARB shall be appointed by the City Council. Members shall have a demonstrated interest, competence, or knowledge in historic preservation.
- (b) *Member appointment terms.*
- (1) Term of office. A member's term shall be four years.
  - (2) An appointment to fill a vacancy shall be only for the unexpired portion of the term vacated.
- (c) *Organization.* The ARB shall elect from its own membership a Chairperson and Vice-Chairperson who shall serve annual terms and may succeed themselves. The City shall designate administrative staff to the ARB and maintain all records, minutes, and files relating to the ARB meetings.
- (d) *Rules:*
- (1) The ARB shall meet in regular session at least once a month when an application has been filed for its consideration. It shall meet at least quarterly even if no application has been filed for its consideration.
  - (2) Special meetings of the ARB may be called in accordance with the ARB rules and procedures, as adopted and amended.
  - (3) A quorum shall be not less than a majority of sitting members.
  - (4) The ARB may make, alter, or rescind rules and forms for its procedures and the implementation of the purposes of this division, consistent with the ordinances of the City and the general laws of the Commonwealth.
  - (5) The ARB shall establish procedures for all matters coming before it for review.

- (6) All meetings shall be open to the public unless the ARB enters closed session as permitted by the Virginia Freedom of Information Act.
  - (7) Public notice shall be required in the case of a proposal to demolish, move, or relocate a Historic Structure in accordance with the public hearing requirements of the State Code and this chapter, *mutatis mutandis*. However, any person appearing and participating in a public hearing on such a proposal, whether personally or by an authorized representative, waives any defects in notice.
- (e) *Powers and duties*. The ARB shall approve, approve with modifications, or deny applications for Certificates of Appropriateness for the construction, reconstruction, exterior alteration, demolition, or relocation of Historic Landmarks or structures within a HOD. The ARB shall have the following duties, which it may exercise in its discretion but shall exercise upon direction from City Council:
- (1) Assist and advise the City Council, the Planning Commission, other City departments and agencies, property owners and individuals in matters involving historic resources.
  - (2) Review and propose additional areas or structures to be included in or removed from an HOD or designated as a Historic Landmark.
  - (3) From time to time conduct, or cause to be conducted, a survey of historic resources.
  - (4) Upon request of the City Council, Planning Commission, or interested citizens, conduct studies deemed necessary to consider additional historic overlay districts, and means of preservation and utilization of historic assets in the City.
  - (5) Develop, adopt, and from time to time modify design guidelines for the City's historic overlay districts, to be considered by the ARB in granting or denying Certificates of Appropriateness, provided that such guidelines shall be consistent with the Secretary of the Interior Standards for Historic Preservation, the purposes intent of the Historic Overlay District, and with such standards, rules, regulations, and procedures as City Council may establish. The ARB may vote to develop or modify design guidelines only after a 60-day period for public comment. The City shall circulate the proposed or modified design guidelines to interested parties and post them on its web page for the duration of the 60-day public comment period. If the ARB makes any policy changes to the design guidelines after receiving public comment, a new 60-day period for public comment shall commence. After the ARB adopts or modifies the design guidelines, the City shall cause them to be published on the City's website and by other means in its discretion.
  - (6) Cooperate with, and enlist assistance from, the Virginia Department of Historic Resources, the National Trust for Historic Preservation, and other interested parties, both public and private, in its efforts to preserve, restore, and conserve historic sites, landmarks, buildings, and structures within the City.

**Sec. 130-405. Certificate of Appropriateness.**

- (a) *Activity requiring ARB review*. Unless exempted by this section, no structure within an HOD, including signs, shall be erected, reconstructed, altered, or restored unless a Certificate of

Appropriateness has been issued by the ARB or, on appeal, by the City Council in accordance with this section. Unless exempted by this section, no Historic Landmark shall be reconstructed, altered, or restored unless a Certificate of Appropriateness has been issued by the ARB or, on appeal, by the City Council in accordance with this section. Unless exempted by this section, no Historic Structure shall be razed, demolished, or moved unless a Certificate of Appropriateness has been issued by the ARB or, on appeal, by the City Council in accordance with this section.

- (b) *Administrative review.* Notwithstanding any contrary requirement of this article, the City may review and administratively approve applications for the following exterior changes:
- (1) Alterations to a Noncontributing Structure that do not substantially change the architectural character or are substantially hidden from view of the street right-of-way.
  - (2) Minor alterations to a Historic Structure that do not substantially change the architectural character or are substantially hidden from view of the street right-of-way
  - (3) The construction of accessory buildings and structures on properties where none of the structures are Historic Structures and where the construction would be in keeping with the character of the principal structure and surrounding area.
  - (4) Reconstruction performed to restore or replace the same as, or nearly the same as practical, a structure to its original documented historical design.
  - (5) Banner signs, window signs, and other minor or temporary signs that comply with the established standards of review and any adopted and published design guidelines.
  - (6) Alterations to existing residential structures in the Liberia Mansion HOD unless exempt from review under §130-405(c).
- (c) *Exemptions from review.* The razing, demolition, or moving of a Noncontributing Structure is exempt from review for a Certificate of Appropriateness. In addition, the following minor work or actions deemed not to have permanent effects upon the character of the HOD are exempted from review for a Certificate of Appropriateness:
- (1) Maintenance of exterior architectural features, including repair and replacement, with the same design, color and material if the City finds that such maintenance:
    - a. Does not result in the substantial removal of an exterior feature that is considered to have historic and/or architectural significance; and
    - b. Does not perpetuate a condition or treatment that is considered to be inappropriate or incompatible with the historic character or surroundings of the building or structure.
  - (2) Repainting of residential structures.
  - (3) Repainting of non-residential structures resulting in the same color. At no time shall painting on original masonry be exempt.

- (4) Additions or deletions on residential structures of storm doors or storm windows, window gardens, awnings, air conditioners, or similar appurtenances when installed in or upon existing windows or wall openings.
- (5) Addition or deletion of HVAC mechanical equipment, antennas, skylights, or solar collectors in locations not visible from a street right-of-way.
- (6) Residential driveways and landscaping that involves changes of grade less than three feet in height, sidewalks or paths, retaining walls not exceeding two feet in height at their highest point, fences not exceeding four feet in height at their tallest point, fountains, or ponds as long as the landscaping on the property as a whole is compatible with the character of the property and its surroundings.
- (7) The construction of off-street loading areas and off-street parking containing four spaces or less in a non-residential district.
- (8) Alterations to existing residential structures in the Liberia Mansion HOD where:
  - a. The structure is not abutting Portner Avenue or Breeden Avenue or any lot line of the Liberia mansion parcels; and
  - b. The structure is not in the viewshed of the Liberia mansion and surrounding open lawn. The Liberia mansion viewshed includes all surrounding points that are in line-of-sight from the Liberia mansion and surrounding open lawn, but excludes points that are beyond the horizon or obstructed by terrain and other features.
- (9) *Scope of review.* Review of the proposed construction, reconstruction, alteration, restoration, relocation, or demolition of a building or structure shall be limited to exterior architectural features only and the appropriate standards of review specified in §130-406.

(d) *Validity of Certificate of Appropriateness.*

- (1) Any Certificate of Appropriateness shall expire on the second anniversary of the date of issuance, unless the owner incurs extensive obligations or substantial expenses in diligent pursuit of the specific project in good faith reliance on the Certificate of Appropriateness. Such Certificate of Appropriateness shall expire and become null and void if the authorized work is suspended or abandoned for a period of two years after the activity has been commenced.
- (2) Prior to the expiration of a Certificate of Appropriateness, upon written request and for reasonable cause, the ARB may extend the validity of any such certificate for a period not to exceed one year.

**Sec. 130-406. Standards of review.**

- (a) *Standards of review for construction and alterations.* The ARB shall consider the following criteria in determining whether or not to issue a Certificate of Appropriateness for construction or alterations:

- (1) Whether the material, texture, color, height, scale, mass, and placement of the proposed addition, modification, or construction are visually and architecturally compatible with the site and the HOD.
  - (2) The harmony of the proposed change in terms of overall proportion and the size and placement of elements such as entrances, windows, awnings, exterior stairs, and signs.
  - (3) The effect of the proposed change on the historic district neighborhood, setting, or streetscape.
  - (4) Whether the proposed method of construction, renovation, or restoration would have an adverse impact on the historic or architectural character of the structure or site, or on adjacent buildings or structures.
  - (5) The Secretary of the Interior Standards for Historic Preservation, as may be relevant.
  - (6) Any applicable provisions of the adopted design guidelines.
- (b) *Standards of review for relocation of a Historic Structure.* The ARB shall consider the following criteria in determining whether or not to issue a Certificate of Appropriateness to relocate a Historic Structure:
- (1) Whether moving the Historic Structure will likely have a detrimental effect on its structural soundness.
  - (2) Whether moving the Historic Structure will have a detrimental effect on the historical aspects of other Historic Structures in the district.
  - (3) If the Historic Structure is moved to a site within a City HOD, whether the new surroundings are harmonious with the historical and architectural aspects of the Historic Structure.
  - (4) If relocation is the only feasible means of saving the Historic Structure from demolition or neglect.
  - (5) Any applicable provisions of the adopted design guidelines.
- (c) *Standards of review for demolition of a Historic Structure.* The ARB shall consider the following criteria in determining whether or not to issue a Certificate of Appropriateness to raze or demolish a Historic Structure:
- (1) The historic, architectural or cultural significance, if any, of the specific Historic Structure, including, without limitation:
    - a. The age of the Historic Structure;
    - b. Whether it has been designated a National Historic Landmark, listed on the National Register of Historic Places, or listed on the Virginia Landmarks Register;
    - c. Whether, and to what extent, the Historic Structure is associated with an historic person, architect or master craftsman, or with an historic event;

- d. Whether the Historic Structure, or any of its features, embodies the distinctive characteristics of a type, period, style, or method of construction, or represents an infrequent or the first or last remaining example within the City of a particular architectural style or feature;
  - e. Whether the Historic Structure is of such old or distinctive design, texture or material that it could not be reproduced, or could be reproduced only with great difficulty or expense; and
  - f. Whether, and to what extent, the distinguishing characteristics, qualities, features, or materials of the Historic Structure remain.
- (2) Whether the Historic Structure is linked, by age or architectural character, to other Historic Structures within an HOD, or contributes as one of a group of properties within the HOD whose concentration or continuity possesses collective significance.
  - (3) Whether the Historic Structure is preserving or protecting the historic or architectural character of the HOD, or preserving or protecting an area of historic interest in the City.
  - (4) The overall condition and structural integrity of the Historic Structure, as indicated by studies prepared by a qualified professional and provided by the applicant or other information provided to the ARB.
  - (5) Whether, and to what extent, the applicant proposes means, methods, or plans for moving, removing or demolishing the Historic Structure that preserves portions, features, or materials that are significant to the property's historic, architectural, or cultural value.
  - (6) Any applicable provisions of the adopted design guidelines.
- (d) *Architectural compatibility.* The ARB shall evaluate architectural compatibility by looking at the appropriateness of the architectural features, materials, scale, size, height, and placement of a new structure in relationship to existing structures and to the setting. The ARB shall not require the emulation of existing structures of historic or architectural interest in specific detail.

**Sec. 130-407. Application procedures.**

- (a) *Certificates of Appropriateness.*
- (1) Requests for Certificates of Appropriateness shall be accepted only from the record owner of the property involved in such proposal or their agent after authorization in writing.
  - (2) Requests for Certificates of Appropriateness shall be made upon the appropriate application form provided by the City and submitted in accordance with established submission deadlines. Each application shall include the following:
    - a. A completed and signed application form.
    - b. A written description of the proposed activity.
    - c. Samples or brochures depicting materials proposed.

- d. Samples or brochures depicting color choices.
  - e. A drawing of sufficient detail to reflect the appearance of the property or structure upon completion of the project.
  - f. A nonrefundable filing fee in accordance with a fee schedule established by an uncodified ordinance enacted by the City Council, as amended.
  - g. If the application has previously been administratively reviewed under §130-405(b) and denied, a statement to that effect.
- (3) By specific request in a particular case, the ARB and/or the City may require submission of additional information in connection with an application.
  - (4) The City may require a pre-application work session meeting with the ARB for applications for new construction.
  - (5) Upon receipt of an application for a Certificate of Appropriateness, the City shall review the submission for completeness and advise the applicant of any omitted information required for review. Once all submission requirements are met, the application shall be set for the next available agenda.
  - (6) A copy of the application, together with a copy of all reproducible materials filed by the applicant, shall be forwarded to the ARB members prior to the next meeting.
  - (7) The City shall maintain a record of all such applications and of final disposition of the same.
- (b) *Administrative approval.*
- (1) Requests for administrative approval shall be made in accordance with §130-63 of this chapter and shall be made upon the appropriate application form provided by the City.
  - (2) Should the application not adequately describe the proposed work, the City may require additional information including photographs, sketches, and samples of materials, or such other information as may be necessary to render a decision.
  - (3) The City shall apply the standards of review set forth in this ordinance and the design guidelines as may be adopted and published in accordance with this ordinance.
  - (4) If the application for administrative approval is denied, the City shall provide its reasons for denial. The applicant may choose to seek ARB approval by applying for a Certificate of Appropriateness in accordance with the procedures set forth in §130-407.
  - (5) The City shall inform the ARB of administrative decisions at the next regular meeting following the date of such decisions.

**Sec. 130-408. Order of other approvals required.**

In any case in which an applicant's proposal for a Certificate of Appropriateness also requires the approval of other approving authorities, the following sequence of review shall apply:

- (a) *Board of Zoning Appeals.* Final action by the Board of Zoning Appeals shall precede final action by the ARB. The Board of Zoning Appeals may request the comments of the ARB prior to taking final action.
- (b) *Planning Commission.* Final action by the ARB shall be taken prior to review by the Planning Commission of a rezoning or special use permit application.
- (c) *Site plan approval.* Final action by the ARB shall be taken prior to site plan approval.
- (d) *Building or zoning permits.* Final action by the ARB shall be taken prior to final approval of building or zoning permits.

**Sec. 130-409. Approval or denial of applications by the Architectural Review Board.**

- (a) The ARB shall render a decision upon any request or application for a Certificate of Appropriateness within 64 days after the item first appears on their agenda for action, unless such period is extended with the concurrence of the applicant.
- (b) Failure of the ARB to render a decision within the time period stated in §130-409(a) shall entitle the applicant to proceed to the City Council for the issuance of a Certificate of Appropriateness.
- (c) The ARB shall clearly state its reasons for approval, denial, modification, or deferral of an application in the records of the ARB proceedings, with appropriate reference to the standards of review stated in §130-406.
- (d) The ARB may suggest changes which would make the application approvable. If the applicant agrees with the ARB and determines, in writing, to make the suggested changes, the ARB shall issue the Certificate of Appropriateness contingent upon such changes.

**Sec. 130-410. Appeals of Architectural Review Board decision to the City Council.**

- (a) An appeal from the ARB decision on a Certificate of Appropriateness to the City Council may be filed when:
  - (1) The ARB, in a final decision, denies an application for a Certificate of Appropriateness. The applicant shall have the right to appeal and be heard before the City Council, if a written notice of appeal is filed with the City Clerk within 30 calendar days of the ARB's final decision.
  - (2) The ARB, in a final decision, approves an application for a Certificate of Appropriateness, or an application for a Certificate of Appropriateness to demolish a Historic Structure. Any opponents of the ARB's decision shall have the right to appeal and be heard before the City Council provided the appeal is filed with the City Clerk within 30 calendar days after the ARB's decision. An appeal by a third party under this section shall be accompanied by a written petition, signed by at least 25 persons who support the appeal, and own real estate within the HOD or adjacent to the subject property.
- (b) The 30 calendar days shall begin on the next business day after the ARB decision.

- (c) Upon receipt of a notice of appeal, the City Clerk shall immediately notify the City Manager, who shall, after consultation with the members of the City Council, schedule a public hearing before the City Council and provide public notice as required by the Code of Virginia.
- (d) Any notice of appeal shall be accompanied by a filing fee in accordance with a fee schedule established by an uncodified ordinance enacted by the City Council, as amended, to cover the costs of the public notice.
- (e) On any appeal, the final decision of the ARB shall be stayed, pending the outcome of the appeal before the City Council, unless the decision of the ARB denies the right to move, relocate, raze, or demolish a Historic Structure.
- (f) The City Council shall, after giving the required public notice, conduct a full and impartial public hearing on the matter before rendering any decision. The City Council shall make a decision in the best interest of the City, taking into account the purposes and intent of the Historic Overlay District.
- (g) After consultation with the ARB, the City Council shall affirm, reverse, modify, or remand back to the ARB for reconsideration of the decision of the ARB, in whole or in part. Another appeal may be taken to the City Council after any remand.
- (h) The decision of the City Council to affirm, reverse, or modify the ARB decision shall be final, subject only to an appeal to the applicable circuit court.

**Sec. 130-411. Appeal to the court of record.**

- (a) Any applicant or body of at least 25 persons owning real estate within the HOD or adjacent to the subject property who previously appealed to the City Council and are aggrieved by a decision of the City Council may appeal such decision to the applicable circuit court.
- (b) Such appeal shall be filed as a petition setting forth the alleged illegality of the action of the City Council.
- (c) Such petition shall be filed within 30 calendar days after the final decision of the City Council.
- (d) The filing of such petition shall stay the decision of the City Council pending the outcome of the appeal to the court, unless the decision of City Council denies the right to move, relocate, raze, or demolish a Historic Structure.
- (e) The court may reverse or modify the decision of the City Council, in whole or in part, if it finds upon review that the decision is contrary to law or that the decision is arbitrary and constitutes an abuse of discretion, or it may affirm the decision.

**Sec. 130-412. Right to demolish a Historic Structure.**

When a Historic Structure may not be demolished due to the requirements of §130-406, the property owner shall, as a matter of right, be entitled to raze or demolish it in accordance with the requirements of the Code of Virginia, §15.2-2306 A.3., second paragraph, as amended. The owner shall submit evidence to support such claim of right to the City, and the City shall determine whether the evidence establishes such a right.

**Sec. 130-413. Maintenance and repair required.**

- (a) All structures within an HOD and Historic Landmarks shall be maintained in good repair, structurally sound, and reasonably protected against decay and deterioration. Examples of disrepair include, but are not limited to:
  - (1) Deterioration of the exterior of a structure to the extent that it creates, or permits, a hazardous or unsafe condition; or
  - (2) Deterioration of exterior walls or other vertical supports, horizontal members, roofs, chimneys, exterior wall elements such as siding, wooden walls, brick, plaster, or mortar, to the extent that it adversely affects the character of the HOD or the structure or could reasonably lead to irreversible damage to the structure.
- (b) The Code Official shall notify the owner and the ARB of specific instances of failure to maintain or repair. The owner shall have 30 days to remedy such violation. If appropriate action is not taken within the 30 days, the City may initiate appropriate legal action as a violation of this chapter.
- (c) The boarding of a vacant structure within an HOD or a Historic Landmark shall constitute the alteration of the exterior architectural features of such structure. In the event such boarding is accomplished pursuant to an order from the Code Official to secure a hazardous structure against entry, the owner shall comply with such order, and within 15 days of the date of such order shall apply for a Certificate of Appropriateness. In considering any application under this section, the ARB may impose such conditions as may be appropriate to secure or preserve the historic elements of the structure against further loss, damage, or deterioration.

**Sec. 130-414. Hazardous buildings or structures.**

Nothing in this Article shall prevent the razing or demolition of any building or structure without approval of the ARB that is in such an unsafe condition that it would endanger life or property. No such demolition shall commence without written approval of the Code Official documenting the conditions necessitating such an action.

**Secs. 130-415-130-420. Reserved.**